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MONTANA LEGISLATIVE HISTORY

Chapter 523 19 91

Bill H _____ S 270 Original bill & history C C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	3-5	✓ C	Hearing Date(s)	2-15	✓ C
	3-13	✓ C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

Senate BILL NO. 270

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AND REGULATING AMUSEMENT GAMES; AMENDING SECTION 23-5-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Definitions. Unless the context requires otherwise, the following definitions apply in [sections 1 through 4]:

(1) (a) "Amusement game" means:

(i) a game played for amusement or entertainment, including a crane game, in which:

(A) the player actively participates;

(B) the outcome of the game depends upon the skill of the player, mixed chance and skill, or chance and is not controlled by any other person;

(C) the player gives valuable consideration, in money or otherwise, for the right to play the game;

(D) only tangible personal property or nontransferable tokens, tickets, or coupons that may be accumulated and redeemed for tangible personal property are awarded as a prize;

(E) the sale of a right to participate, the determination of winners, and the distribution of prizes all occur in the presence of all players;

(F) prizes are displayed; and

(G) prizes may not be repurchased; and

(ii) a coin-operated electrical or electromechanical device that confers as a prize an immediate, unrecorded right of replay not exchangeable for something of value and that does not make a permanent record, directly or indirectly, of free replays that are awarded.

(b) The term does not include a device that simulates a gambling activity, as defined in 23-5-112, and that contains or may be adapted to contain switches that permit the elimination of credits earned by a player or meters that measure the number of credits that have been eliminated.

(2) "Arcade" means a commercial establishment whose primary purpose is to make amusement games available for public play.

(3) "Concessionaire" means a person who owns one or more amusement games and who enters into an agreement with an operator to conduct games. A concessionaire may also be an operator.

(4) "Crane game" means an amusement game activated by the insertion of a coin or token by which the player uses one or more buttons, control sticks, or similar means of control or a combination of those means of control to

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position a mechanical or electromechanical claw or other retrieval device over a prize and attempts to retrieve it.

(5) "Nonprofit organization" means a nonprofit corporation or a nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, or service organization, established for a purpose other than conducting amusement games.

(6) "Operator" means a person who enters into an agreement with a county fair commission, board of directors of a fair district, joint fair and civic center commission, business association, or similar entity, to provide amusement games.

NEW SECTION. **Section 2.** Requirements for games. An operator, concessionaire, nonprofit organization, or arcade may provide amusement games to the public under the following conditions:

(1) The fee paid for the right to play the game does not exceed $5.

(2) A cash prize is not awarded.

(3) The system for awarding prizes does not require forfeiture of a previously won prize unless the prize is traded for a prize of equal or greater value.

(4) Concealed numbers or conversion charts are not used in conducting the game.

(5) The game is not designed or adapted with a control

device to permit manipulation during the play of the game by any person to control the ability of a player to win or to predetermine who the winner will be. A crane game may not contain a variable resistor or any turn screw, knob, potentiometer, or similar device that may be used to alter the closing strength of the game's claws or retrieval device.

(6) The object of the game is attainable and possible to perform, under the stated game rules, from the playing position of the player.

(7) The game is conducted in a fair and honest manner and does not constitute a fraud upon the players.

NEW SECTION. **Section 3.** Authority to inspect. At any time during normal business hours, local law enforcement officers and department of justice employees may inspect any amusement game made available for public play by an operator, concessionaire, nonprofit organization, or arcade for compliance with [section 2].

NEW SECTION. **Section 4.** Violations. A person who purposely or knowingly violates or procures, aids, or abets in a violation of [section 2] is punishable by a fine not to exceed $1,000 or by imprisonment in the county jail for a term not to exceed 6 months, or both.

Section 5. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires

otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. No more than 75 numbers may be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a previously designated arrangement of numbers on the bingo card.

(5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(6) "Card game table" or "table" means a live card game table authorized by permit and made available to the public on the premises of a licensed gambling operator.

(7) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(8) "Department" means the department of justice.

(9) "Distributor" means a person who:

(a) purchases or obtains from another person equipment of any kind for use in gambling activities; and

(b) sells, leases, or otherwise furnisnes the equipment to another person for use in public.

(10) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise. The term does not include amusement games regulated by [sections 1 through 4].

(11) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(12) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(13) "Gross proceeds" means gross revenue received less

prizes paid out.

(14) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department.

(15) "Illegal gambling enterprise" means a gambling enterprise that violates a statute or a rule of the department.

(16) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

(17) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(18) "License" means an operator's, dealer's, or manufacturer-distributor's license issued to a person by the department.

(19) "Licensee" means a person who has received a license from the department.

(20) "Live card game" or "card game" means a card game that is played in public between persons on the premises of a licensed gambling operator.

(21) "Lottery" or "gift enterprise" means a scheme, by whatever name known, for the disposal or distribution of

property by chance among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. However, "gift enterprise" does not mean:

(a) lotteries authorized under part 10 of this chapter; or

(b) cash or merchandise attendance prizes or premiums that the county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos.

(22) "Manufacturer" means a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

(23) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1 through 6 of this chapter.

(24) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(25) "Person" or "persons" means both natural and

artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(26) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(27) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access; or

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization.

(28) "Raffle" means a gift enterprise in which each participant buys a chance or chances to win a prize.

(29) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise,

tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

(30) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

NEW SECTION. **Section 6.** Effective date. [This act] is effective on passage and approval.

-End-

4/06	3RD READING CONCURRED	57	41
	RETURNED TO SENATE		
4/11	SIGNED BY PRESIDENT		
4/12	SIGNED BY SPEAKER		
4/12	TRANSMITTED TO GOVERNOR		
4/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 442	EFFECTIVE DATE: 7/01/91	

SB 270 INTRODUCED BY WILLIAMS, ET AL.
LEGALIZE AND REGULATE AMUSEMENT GAMES

2/04	INTRODUCED		
2/05	REFERRED TO JUDICIARY		
2/05	FIRST READING		
2/15	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	2ND READING PASSED	49	0
2/22	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO JUDICIARY		
3/05	HEARING		
3/13	HEARING		
4/01	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/05	2ND READING CONCURRED	89	8
4/06	3RD READING CONCURRED	86	10
	RETURNED TO SENATE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	43	2
4/10	3RD READING AMENDMENTS CONCURRED	48	2
4/17	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 523	EFFECTIVE DATE: 4/22/91	

SB 271 INTRODUCED BY JERGESON, ET AL.
CREATING LIEN RIGHT AGAINST REAL PROPERTY FOR WATER OR SEWER SERVICES

2/04	INTRODUCED		
2/05	REFERRED TO JUDICIARY		
2/05	FIRST READING		
2/14	HEARING		
2/16	TABLED IN COMMITTEE		

SB 272 INTRODUCED BY FARRELL
CLARIFY THE INDUSTRIAL DEVELOPMENT ACT

2/04	INTRODUCED		
2/05	REFERRED TO TAXATION		
2/05	FIRST READING		
2/13	HEARING		
2/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/26	2ND READING PASSED	49	0
2/27	3RD READING PASSED	47	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
3/12	HEARING		
3/14	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/06	2ND READING CONCURRED AS AMENDED	79	12
4/06	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING THIS DAY		

CHAIRMAN--RICHARD PINSONEAULT
NORMAL SCHEDULE==> SITE: ROOM 325 DAYS: M,T,W,T,F TIME: 10:00 A.M.
SECRETARY-JOANN BIRD

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0270	2/05	2/15		PASS AS AMENDED		2/20
WILLIAMS, BOB			LEGALIZE AND REGULATE AMUSEMENT GAMES			
SB0271	2/05	2/14		TABLED ON 02/16		
JERGESON, GREG			CREATING LIEN RIGHT AGAINST REAL PROPERTY FOR WATER OR SEWER SERVICES			
SB0293	2/07	2/18		PASS AS AMENDED		2/18
DOHERTY, STEVE			INCREASE JURISDICTION OF MUNICIPAL COURTS			
SB0300	2/07	2/22	4/3	PASS AS AMENDED		4/04
PINSONEAULT, DICK			AUTHORIZE DNRC CONSIDER CERTAIN RECHARGE RATES FOR BENEFICIAL USE OF WATER			
SB0304	2/07	2/18		DO PASS		2/18
STIMATZ, LAWRENCE			EXTENDING VALIDATION OF CONVEYANCES RECORDED AFTER DEFECTIVE EXECUTION			
SB0308	2/08	2/19		DO PASS		2/19
ECK, DOROTHY			ELIMINATE ADVANCED AGE FROM DEFINITION OF "INCAPACITATED PERSON" IN PROBATE			
SB0309	2/08	2/20		TABLED ON 02/20		
BURNETT, JIM			CREATE OFFENSE OF OBSTRUCTION OF BUSINESS			
SB0315	2/08	2/18		DO PASS		2/23
DOHERTY, STEVE			ALLOW EXECUTION OF JUSTICE COURT JUDGMENT OUTSIDE COUNTY OF JUDGMENT			
SB0321	2/08	2/19		PASS AS AMENDED		2/23
FRITZ, HARRY			EXPAND BENEFITS UNDER CRIME VICTIMS ACT TO INCLUDE DUI VICTIM AND FAMILY			
SB0327	2/08	2/20		PASS AS AMENDED		2/20
NOBLE, JERRY			REVISE SHOPLIFTING LAWS			
SB0331	2/08	2/19		PASS AS AMENDED		2/23
FRANKLIN, EVE			REVISE LAWS RELATED TO COUNTY CORONERS, INQUESTS, AND INQUIRIES			

Senator Harp asked for clarification on provisions for peace officers in section 5, and if the bill would put everyone under one section. Marc Racicot replied that is contained in section 4, but is not as explicit. He stated that this language is also contained in section 3, but paragraph 2 is new. Mr. Racicot said section 1 contains operating provisions.

Senator Towe said he did not understand the fiscal note. Marc Racicot replied he contemplated nine advisory council members who would be reimbursed for four meetings annually.

Senator Towe asked Mr. Racicot if he wanted the number of members of the advisory council to be flexible. Mr. Racicot replied he did, but anticipated nine members.

Senator Halligan stated he was uncomfortable with allowing DOJ to pick an advisory council, as it could then fire any council member. He said he believed there should be some objectivity in the selection process. Marc Racicot replied that Senator Halligan's point was well-taken, and that terms could be established to permit carryover. He added that he originally proposed this, but the Peace Officers suggested that it be removed.

Closing by Sponsor:

Senator Gage made no closing comments.

HEARING ON SENATE BILL 270

Presentation and Opening Statement by Sponsor:

Senator Bob Williams, District 15, said the bill would allow and regulate amusement games. He explained it was the result of problems people had with carnival games, and that the matter had been discussed with Bob Robinson, Gambling Control Division Administrator.

Senator Williams submitted an amendment to cover an omission when the bill was drafted, and said it is important that this legislation be effective upon signature, because of the upcoming carnival season (Exhibit #7).

Proponents' Testimony:

Bob Robinson, Gambling Control Division Administrator, DOJ, said the fair boards expressed their concerns to him. He stated that SB 431 prohibits or defines gambling as any risk based on chance. He advised the Committee he worked with carnivals to determine which games could be played and tried to focus on games of skill, since games of chance cannot be played (Exhibits #8 and 9).

Mr. Robinson reported that an attorney requested to be advised as to whether or not crane games were a gambling device if prizes had money attached. He said the Attorney General decided such games were illegal, and that this decision was upheld by the Flathead District Court.

Mr. Robinson explained that the bill describes games, how they are to be used, where they may be played, and takes them out of the gambling arena. He commented that he is mostly in agreement with the bill, but has serious objections to games of chance. Mr. Robinson stated it was tough to come up with fair language to deal with policy issues on games of amusement, and said he supported Senator Williams' amendment. He explained that amendment 5 was in the original draft of the bill, and serves to reinforce existing gambling law.

Representative Don Steppler, District 21, said he was testifying as a representative of the Richland County Fair and Rodeo. He read from prepared testimony, and said he agreed that guidelines were necessary. He asked the Committee to support SB 270.

Patrick Holt, Missoula attorney, said he assisted Bob Robinson and Lois Menzies (Gambling Control Division) in drafting this bill. He stated he believes it is most important to understand that the drafters researched restrictions of other states, and said the goal is not to create a new industry in the state. Mr. Holt advised the Committee that the gambling act eliminated many games, and that carnivals are trying to get back to status quo on games which have always been played in Montana.

Mr. Holt reported that the drafters discussed skill versus chance, and said it is important to note the context of what is and what is not chance as it relates to amusement games. He stated that not more than $5 can be risked on games and there can be no fraud upon players. He further stated that prizes must be tangible personal property, and that enforcement is intended to be uniform.

Bill Chiesa, General Manager, Metro Park, Billings, told the Committee he serves as general chairman for 38 fairs in Montana. He said he believes the bill is housekeeping which needs to be done, as carnivals at fairs generate a good deal of income to the state and bring families. He encouraged the Committee to support the bill.

Robert Ziegler, Dawson County Commissioner, stated his support of the bill.

Sam Yenusiak, Western Montana Fair, explained that carnival proceeds from fairs can add 15-20 percent to a county budget. He said he believes fairs try hard to be a family event.

Mr. Yenusiak testified on behalf of Gordon Morris, Montana Association of Cities and Towns, in support of the bill.

Larry Stollfuss, Executive Director, Rocky Mountain Association of Fairs, stated that all 38 fairs in Montana support the bill. He advised the Committee that he is also a school superintendent, and that the gambling act even made cake walks a form of gambling (Exhibit #10).

Dave McClure, Central Montana Fair Board, Lewistown, said last season many families asked what had happened to their favorite games.

Jack Ziegler, Yellowstone County Commissioner, asked to go on record in support of SB 270.

Eleanor Pratt read from testimony in support of the bill.

Bob Severtson, Chairman, Hill County Fair Board, Havre, urged the Committee to support the bill. He said it is a big part of the cultural aspect of communities, and that he believes if carnivals are lost it will affect fairs. He commented that he has served on the Fair Board for 22 years.

Gloria Paladichuk, Richland County Commissioner, stated her support of the bill.

Gary Koepplin, Ravalli County Fair, Hamilton, commented that carnivals are a major revenue generator for fairs.

Linda Stoll-Anderson, Lewis and Clark County Commissioner, asked the Committee to support the bill.

John Labenburg, Fort Peck, said he worked on the bill. He stated the income and fanfare produced by carnivals are part of rural America, and that it is important to the economy and society of rural America to pass this bill.

Mik Mikkelson, A&M Novelty, Belgrade, told the Committee he began working on the crane game problem with the Attorney General's office in 1990. He explained that this situation is addressed and corrected in the bill. Mr. Mikkelson advised the Committee that "on a 29.8 percent payout on 30 percent gross revenue, 35 percent of that figure was paid to the location, 17.8 percent went to expenses, and 17.4 percent went to the community".

Opponents' Testimony:

Harley Warner, Montana Association of Churches, said he opposed the bill as it was originally written, because it would allow casino nights. He stated he supports the bill with the amendments and agreed with the concepts in the bill, as his own church sponsors games to fund a mission project in Guatemala. Mr. Warner told the Committee he sees having no limit on personal property prizes as a problem.

Gary Bennett, Montana Coin Machine Operators, told the Committee he is a reluctant opponent, as the bill doesn't allow for a regulatory or rulemaking authority, requires no licenses, and sets no limits or caps on payout. He commented that there have been problems with gray areas in the gambling bill in the past, and that he doesn't want the same thing to happen with this legislation.

Mr. Bennett advised the Committee there is a $2 limit on bets in the gambling statutes, and said he believes the bill sets gambling back about 15 years. Mr. Bennett added that he wants to find a way to allow these games of amusement in the state, but believes the bill has serious problems. He suggested a four or five day permit exempting carnival games from the gambling act.

Questions From Committee Members:

Chairman Pinsoneault asked Patrick Holt to address the statements made by Gary Bennett in opposition to the bill. Mr. Holt replied said he believed there are legitimate concerns, except amusement games cannot be operated by for-profit enterprises. He read from page 3, line 8, sections 5 and 6, and said the intent is that amusement games are to be restricted to what they have always been used for. He added that the bill does not restrict churches and cake walks.

Chairman Pinsoneault asked Patrick Holt to comment on limits on tangibles of $50 or $100. Mr. Holt said he believed economics would limit prizes given, and that winners can trade prizes in, but cannot receive cash for them. He commented that if no one wins a game, no one will probably play that game, and said the games are designed to establish competition.

Senator Towe asked if the definition of operator on page 3 allows anyone to be an operator. Mr. Holt replied it does.

Senator Towe commented that "business association or similar entity" in the bill would allow anyone to run these games in a bar. Mr. Holt replied that issue should receive further consideration. He stated that the idea behind that language was groups of shopping center merchants, and that maybe it needed to be cleaned up.

Senator Mazurek asked if a shopping center mall could set up a permanent carnival. Mr. Holt replied there is no real prevention of this.

Senator Mazurek asked about the focus on time limits. Mr. Holt replied 10 days to 2 weeks was discussed during the drafting stage. He added that carnivals must be licensed in Missoula County, and are subject to police investigation.

Senator Mazurek asked if any effort were made to deal with short-term bingo games. Mr. Holt replied that the drafters did not

perceive bingo as a problem. He said the goal was to address games wiped out by the gambling act.

Senator Mazurek asked how the $5 limit was arrived at. Reed Williams, Inland Empire Shows, reported that it was derived from operators in Billings and covers three tries.

Senator Doherty asked if there were any concern on the part of DOJ that Indian reservations can allow larger prizes to be picked up. Bob Robinson replied he was not sure where this would fall or if it were even class 3 gaming.

Senator Grosfield asked what class 3 gaming includes. Bob Robinson replied that if it were taken out of the gambling statute, but were addressed by the Indian Gaming Regulatory Act, he was fairly confident it would not apply.

Senator Grosfield asked Reed Williams what the maximum value of prizes offered is. Mr. Williams replied it is $5 or $6, and for average games it is $1 or $2. He advised the Committee he opposed limits as operators must negotiate with importers who constantly increase their prices. Mr. Williams said he did not believe $5 to win a $10,000 diamond would work as the prize would have to be too unattainable versus the profit.

Senator Mazurek asked about rulemaking and enforcement authority. Mr. Holt replied that was discussed and considered in the draft, but is already included under DOJ. He said the idea is to continue cooperation between the industry and the Gambling Division, and to establish uniform guidelines within the state.

Senator Towe asked where one can go to get clarification of permission except to local jurisdictions. Mr. Holt replied the language in the bill says games can't be controlled by any external means. Reed Williams stated that if there were questions on the local level they would defer to Bob Robinson.

Senator Towe commented that a county attorney does not have to go along with the Gambling Control Division. Mr. Holt replied it would be a difficult problem in that respect, but the goal of the bill is to promote harmony.

Closing by Sponsor:

Senator Williams thanked the Committee for the time spent hearing SB 270.

EXECUTIVE ACTION ON COMMITTEE BILL

Motion:

Senator Svrcek made a motion to request a committee bill to increase the statute of limitations for filing complaints with the

Human Rights Commission from 180 days to 1 year because of language in SB 199. He said he believes the Committee needs to look at this and to provide consistency for filing of complaints within that state agency.

Discussion:

Senator Mazurek commented that his sense was a committee bill on this issue would not get much of a fair hearing.

Senator Rye asked Senator Brown for his opinion on the issue. Senator Brown, sponsor of SB 199, replied it is not a big deal and can be addressed next session, but it would not hurt to do it now.

Senator Yellowtail stated he believed it would be worth doing.

Senator Towe commented that there is some justification for consistency.

Senator Mazurek stated his express reason for changing the statute on housing complaints was to meet federal requirements. He said that since the state agency takes the responsibility of handling the complaint, it is not necessarily typical of the statutes of limitation.

Senator Svrcek said that no other statute is this short.

Amendments, Discussion, and Votes:

Recommendation and Vote:

Senator Svrcek's motion failed 5-7 in a roll call vote (Attached).

ADJOURNMENT

Adjournment At: 12:05 p.m.

Chairman Dick Pinsoneault, Chairman

Joann T. Bird, Secretary

DP/jtb

ROLL CALL

SENATE JUDICIARY COMMITTEE

52nd LEGISLATIVE SESSION -- 1991 Date 15 Feb 91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

Exhibit #7
15 Feb 91
SB 270

PROPOSED AMENDMENTS TO SENATE BILL NO. 270

Submitted by Senator Bob Williams
February 15, 1991

1. Page 1, line 11.
Strike: "4"
Insert: "5"

2. Page 2, line 20.
Following: "operator"
Insert: "as defined in subsection (6)(a)"

3. Page 3, line 8.
Following: "who"
Insert: ": (a)"

4. Page 3, line 12.
Following: "games"
Insert: "or; (b) makes a crane game available for public play on his premises or a premises owned by another person"

5. Page 4.
Following: line 18
Insert: "NEW SECTION. Section 4. Gambling and illegal gambling devices and enterprises prohibited. An arcade, concessionaire, nonprofit organization, or operator may not make available for play a gambling or illegal gambling device or enterprise governed under Title 23, chapter 5, parts 1 through 6.
Renumber: subsequent sections

6. Page 6, line 17.
Strike: "4"
Insert: "5"

Exhibit
15 Feb 91
SB 270

Testimony on Senate Bill 270

Submitted by Bob Robinson, Administrator
Gambling Control Division, Department of Justice
February 15, 1991

Senate Bill 431 enacted by the 1989 Legislature had an unanticipated impact on certain carnival and amusement games. The most graphic example is the crane game. A county attorney, after seeing crane games used as a gambling device in licensed casinos, requested an Attorney General's opinion concerning its legality.

The Attorney General's opinion, (43 Op. Att'y Gen. No. 39) issued in October, 1989, determined that a crane game was an illegal mechanical gambling device. Subsequently, Flathead County District Court ruled a that crane game met the definition of a illegal gambling device.

This bill, with the amendment offered by the Division, would allow the operation of amusement games, including crane games, and establish standards for operating the games. Most importantly, the bill would exclude amusement games and crane games from the definition of gambling and from regulation under the gambling laws. Carnival games that depend upon chance or lot to determine the winner are considered illegal gambling activities under the current definition of gambling. The carnival industry willingly modified or withdrew several games during the 1990 carnival season to comply with this law.

This bill, developed by the industry and the Department, defines amusement games, sets standards for their play, and ensures that carnival games were legally operated in the future.

The Department generally supports this bill but has one reservation. On page 1, lines 16 and 17, the bill defines an amusement game as one whose outcome depends on "skill, mixed chance, and skill and chance." The Department believes that a

Ex 5
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problem or conflict arises when a game is authorized whose outcome is determined by chance alone, which exactly meets the definition of gambling, but is exempt from the gambling law. The Division suggests that the law allow only those games that operate on the basis of skill or mixed chance or skill and that games of pure chance be left in the gambling arena.

SB270.RJR
RJR/dcg

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Revised April 5, 1990

Carnival Game Guidelines
Prepared jointly by: Gambling Control Division, Department of Justice
Rocky Mountain Fair Managers Association (Montana Committee)
Representatives of the Outdoor Amusement Business Association

A. INTRODUCTION

In 1989 the Legislature significantly revised Montana's public gambling statutes. Gambling was defined as an activity in which something of value is risked for a gain which is contingent in whole or in part upon an element of chance (23-5-112,(10) MCA). In addition, the Legislature required the Department of Justice and the courts to strictly construe the law defining the gambling activities allowed by the Legislature. During the deliberations on gambling legislation the impact of the revised laws on carnival activities was not examined or discussed. Subsequently, it has become evident that a number of carnival games commonly played across the state of Montana involve gambling activity. The Montana Department of Justice, Carnival Operators, and Fair Managers Association jointly developed this document to provide guidance relative to the operation of carnival games in Montana to ensure gambling is eliminated from any offered activity.

B. NON-GAMBLING ACTIVITIES (PERMISSIBLE)

In applying the provisions of Title 23, Chapter 5, Montana Codes Annotated, it was not the intention of the Legislature to prohibit the conduct of games of skill. Consequently, the gambling statutes described in Title 23, Chapter 5 do not apply to the participants in an athletic or sporting event. Therefore, those carnival games which can be consistently won by individuals possessing an adequate level of skill will be considered sporting events and the participants are not subject to direct control by the Department of Justice; however, as a precaution, the following guidelines are suggested for all carnival games:

1. Carnival games must be conducted in a fair and honest manner;

2. The operator of the game should post in a conspicuous place (observable by the player) a sign stating:

    a. name of the game;
    b. cost per play;
    c. rules of play;
    d. how the game is won.
    e. name of the game owner.

Lettering should be plain and clearly visible to the player.

3. The on site office of the carnival operator should retain a list of the full name and address of all carnival game owners;

4. No prize shall be displayed which cannot be won.

5. Game operators may exchange a small merchandise prize for one of equal or greater value.

6. The game must be attainable and possible with reasonable skill under the rules stated (no gaffs).

7. The outcome of any game must be based upon the skill of the player and not the judgement or determination of the operator (i.e. games including foul lines, rim shots, alibis etc.).

8. No concealed numbers or conversion charts, can be used in the play of the game.

The following describes games which the Department of Justice believes can be consistently won by an individual possessing an adequate skill level. The games are similar to athletic or sporting events in which those directly participating would not be considered by the Department of Justice to be involved in a gambling activity:

1. **Dart games** where the player may win the game by throwing the darts at a clearly visible target. This would not include dart games played with score boards with squares or targets so small as to be extremely difficult for the player to hit a selected target or which lack the necessary score combinations to win the prize or any form of dart game which has coded tags or symbols behind the balloon or other concealed target used to determine the winner. Winners must be determined strictly through their skill in being able to hit a designated target. The game may be either a choice or build up game. This group includes, but is not limited to games known as:

   a. Balloon Dart;
   b. Bust One;
   c. Bust Three;
   d. Tic, Tac, Toe;
   e. Target Dart
   f. Star Dart;
   g. Poster Dart;
   h. Cross Bow;
   i. Apple Cherry Dart;
   j. Small Mirrors;
   k. T-shirts;

2. **Ball games** where the player possessing a reasonable amount of skill may consistently win through throwing or rolling a ball at a particular type of target. This classification does not generally include games in which a ping pong or other similar ball

is thrown in an attempt to land in another object such as a gold fish bowl or goblet. This group includes, but is not necessarily limited to, games commonly known as:

a. Speed Ball where the winner is governed by the speed of the pitch, not by a match to any particular score;
b. Long Range Football;
c. Short Range Basketball;
d. Long Range Mini Basketball;

f. Peach Basket toss as long as the [illegible] involve foul lines, does not prohibit rim shots, and if baskets are not modified or angled in such a way as to make it nearly impossible for a reasonably skilled player to win;
g. Tip 'Em Coke;
h. Break a Bottle;
i. Can Alley;
j. Skee Ball where the device replicates a bowling game.

3. **Guns or shooting games** where the player with reasonable skill can consistently win by shooting at a target or hitting a particular target to win the game. This group includes, but is not necessarily limited to:

a. Shoot Out the Star provided that there are sufficient number of bb's to allow the player possessing a reasonable amount of skill to actually be able to shoot out the star;
b. Cross Bow;
c. Cork Gun;
d. Balloon Race;

4. **Ring tosses** where the player possessing a reasonable amount of skill would be able to consistently win by throwing a ring over or around a target to win. In most cases, the ring must be completely over the target to win, according to the specified rules of the game. This group includes, but is not necessarily limited to:

a. Ring Toss;
b. Coke Ring;
c. Rabbit or Duck Ring;
d. Cone Pitch;
e. Hula Hoop Bear Pitch;

5. Miscellaneous games in which a player possessing a reasonable amount of skill would be able to consistently win the game. These games include, but are not necessarily limited to:

a. Bottle Up or similar games - the player picks up an empty bottle using a pole with a ring on the end of the string without allowing the bottle to fall off the stand;
b. Rope Ladder - a ladder is on the swivel and if you can crawl to the top of the ladder you win;
c. Dip Bowling - the bowling ball is rolled on the track over

an incline into a depression and must stay in the depression to win.

The carnival games listed above are described in general terms as there may be other games similar to these which would not constitute gambling activities pursuant to the Department of Justice' interpretation of Title 23, Chapter 5, Montana Codes Annotated.

In each case, if a player's ability to win any of the above games is restricted through the operator's display of prizes which cannot be won, alibis, concealed numbers, conversion charts, alterations to the game, or other gaffs, the Department will consider those games as gambling activities and may choose to investigate, and seek prosecution of the operator for fraud (23-5-156, MCA) or theft (45-6-301, MCA) and/or prohibited gambling (23-5-151, MCA).

C. GAMBLING ACTIVITIES (PROHIBITED)
The following describes those games which would be considered gambling activities as they are not an athletic or sporting activity and the outcome is determined by chance:

1. Mechanical games: Games in which a device which is often adjustable is used in order to determine the outcome of the game. This includes games commonly known as:

   a. Dozer;
   b. Cranes;
   c. Diggers;
   d. Frog Bog;
   e. Circular Sweeper;
   f. Flip a Chicken

2. Games in which the player selects a target or prize and the winner is determined through a concealed ticket, stamp, tag, number, or other similar symbol. These types of games include, but are not limited to:

   a. Duck Ponds (This game will be allowed if there is a prize every time of equal value or, if the prize values vary, the ducks must be visibly labeled on the portion of the duck which is out of the water as to which prize a player can win by picking the duck);
   b. Add 'Em Up Dart;

3. Gambling games which are a slightly altered version of games commonly used for a commercial gambling activity as follows:

   a. Pokerino - A mechanical roller rotates five tumblers with playing cards on them. The customer stops each tumbler individually, trying for a good poker hand. The better the hand, the more coupons won. Coupons are traded in for prizes;
   b. Gold Fish or Goblet Pitch - Ping pong or other similar balls are tossed at gold fish bowls or goblets. If the ball

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lands in the bowl, you win the gold fish or other prize;

c. Derby or Roll A Ball - Balls are rolled one at a time into numbered holes. The first person to reach the required number wins;

d. Crazy Ball - Money is placed on a color-coded counter. The ball or block is tossed onto the color-coded playing field. The player wins when the corresponding color comes up;

e. Color Wheel - This is similar to Crazy Ball only a color-coded wheel is used.

Any of the above-referenced games will be considered possession of illegal gambling devices or schemes subject to appropriate enforcement action (23-5-102, MCA) or investigation to determine the level of fraudulent or gambling activity (23-5-156, MCA).

Upon receipt of a written request, the Gambling Control Division, Department of Justice, will review other proposed variations of games or new carnival games in order to determine the applicability of Title 23, Chapter 5, Montana Codes Annotated. The written request should include a complete description of the play of the game, and, if possible, a video tape example. The Department may require a live demonstration of any game submitted for consideration. The Department shall make a determination as to whether the proposed game is a gambling activity and notify, in writing, the person submitting the request for carnival game review. The person may request a hearing to consider whether the proposed game is a gambling activity by submitting a written request to the department within 30 days of receipt of the department's decision. From this point forward, all proceedings shall be conducted in accordance with the Montana Administrative Procedure Act and the Attorney General's model rules of procedure.

Attached: Telephone numbers and addresses of the investigators

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WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15th day of February, 1991.

Name: Larry Stollfuss

Address: Box 255

Carter MT 59420

Telephone Number: 734-5345

Representing whom?

Rocky Mountain Association of Fairs

Appearing on which proposal?

S.B. 270

Do you: Support? X Amend?____ Oppose?____

Comments:

Representing the 38 Montana Fairs who are member of the Rocky MTN. Ass of Fairs We support SB 270 It provides the proper amount of control in the amusement games industry. Amusement games are an important part of the carnival industry as it provides needed revenue for the industry to function in a profit mode within the State. S.B 270 will allow carnivals to generate, through Amusement games, the revenues the need to continue operating in this state. Fairs are dependent on carnivals for a large portion of their operating revenues Fairs are important parts of their communities educational and cultural Heritage. Communities Fairs and Carnivals all mesh together in a productive cultural educational and entertaining fashion. Please give SB 270 A do pass recommendation

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 15 Feb 91 Bill No. _____ Time 12 noon

NAME	YES	NO
Sen. Brown		
Sen. Crippen		✓
Sen. Doherty	✓	
Sen. Grosfield		✓
Sen. Halligan	✓	
Sen. Harp		✓
Sen. Mazurek		✓
Sen. Rye		✓
Sen. Svrcek	✓	
Sen. Towe	✓	
Sen. Yellowtail	✓	
Sen. Pinsoneault		✓
	5	7

Jody Bird
Secretary

Sen. Dick Pinsoneault
Chairman

Motion: motion - Svrcek Committee Bill failed

SF-3 (Rev. 1987)

DATE 2-15-91 1 of 2

COMMITTEE ON Senate Judiciary

SB 250 SB 257 SB 270

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
Gloria Dale Dillard	Richland Co. Comm.	SB 270	✓	~~✓~~
Eleanor Pratt	Valley Co. Comm.	SB 270	✓	
~~Lila Wilkinson~~	~~Letter of Opposition~~	~~SB 270~~	~~✓~~	
Marie Wilkinson	Attn: Loyalty	SB 270	–	
Lila Wilkinson	Attn: Novelty	SB 270	✓	
Eldon Ackerman	" "	"	✓	
Alice Ackerman	" "	"	✓	
Ron King	McCone County	SB 270	✓	
Verne King	McCone Co	SB 270	–	
Robert Smith	Dawson Co	SB 270	✓	
Mark Luckock	AFSCME	SB 250		✓
Iris Volinkaty	DD Lobbyist	SB 250	✓	
~~Joel~~ Olsen	DDPAC	SB 250	✓	
Bob Anderson	Dept of Institutions	SB 250	✓	
Harley Warner	Montana Assoc of Churches	SB 270		✓
Harry Stollfuss	Rocky Mtn Ass. of Fair	SB 270	✓	
Russell L Myers	M.D.C. Bozeman MT	SB 250		✓
Donna Stollfuss	Rocky Mtn Assoc of Fairs	SB 270	✓	
Silvio Chiesa	Montana	SB 270	✓	
Reed Williams	Inland Empire Showstock	SB 270	✓	
Tony Kaynaki	Ravalli County Fair	SB 270	✓	
Mark Mansell		SB 270		
Mac Mallew	Yellowstone	SB 270	✓	
~~A Zeeger~~	~~Yellowstone~~	SB 270	✓	
MIKE LAVIN	A.G.	SB 257	✓	
Bill Fleiner	Mont. Sheriff's & Police Assoc	SB 257	✓	

DATE 3-15-91

COMMITTEE ON Senate Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Sen Don Steppler	Dist 21 Richland Co Fair	SB 270	✓	
Dave McClure	Central Mont Fair - Lewistown	SB 270	✓	
Kelly Mogren	Board of Visitors	SB 250	✓	
[illegible]	Fort Peck, Mt.	SB 270	✓	
Patrick Holt	Lolo MT	SB 270	✓	
Sam Yturriaga	Missoula Mt. Western Mont. Fair	SB 270	V	
Frederick F. Steward	Montana Advocacy Program	SB 250	✓	
Kristi Parker	Montana Advocacy Program	SB 250	X	

(Please leave prepared statement with Secretary)

CHAIRMAN--BILL STRIZICH
NORMAL SCHEDULE==> SITE: ROOM 312-2 DAYS: M,T,W,T,F TIME: 8:00 A.M.

SECRETARY-JEANNE DOMME

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
SB0198	2/12	3/20		CONCUR		3/20
BROWN, BOB			CORRECT HOUSING DISCRIMINATION CITATION ERROR			
SB0199	2/13	3/20		CONCUR		3/21
BROWN, BOB			AMEND HOUSING DISCRIMINATION LAWS TO CONFORM TO FEDERAL LAW			
SB0204	2/15	3/06		CONCUR AS AMENDED		3/11
GAGE, DEL			PROVIDE ALTERNATIVE SENTENCING FOR FELONY OFFENSES RELATED TO DANGEROUS DRUG			
SB0214	3/04	3/12		CONCUR		3/12
TOWE, TOM			INCREASE DOLLAR AMOUNT SUBJECT TO CIVIL JURISDICTION IN CERTAIN COURTS			
SB0228	3/04	3/08		CONCUR		3/12
YELLOWTAIL JR., BILL			INCREASE SALARIES FOR SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES			
SB0246	3/04	3/13				
NATHE, DENNIS			EXTEND TERMINATION DATE FOR LIMITATIONS FOR CERTAIN LIABILITIES			
SB0249	3/04	3/07		CONCUR AS AMENDED		3/11
SVRCEK, PAUL			AMEND THE MONTANA CRIMINAL JUSTICE INFORMATION ACT			
SB0250	3/04	3/15		CONCUR AS AMENDED		3/15
KEATING, TOM			AMEND THE LAWS RELATING TO COMMITMENT OF DEVELOPMENTALLY DISABLED PERSONS			
SB0257	3/04	3/15		CONCUR		3/15
GAGE, DEL			CLARIFY STATUS OF CERTAIN PERSONNEL OF THE DEPARTMENT OF JUSTICE			
SB0270	3/04	3/13		CONCUR AS AMENDED		4/01
WILLIAMS, BOB			LEGALIZE AND REGULATE AMUSEMENT GAMES			
SB0293	3/04	3/15		CONCUR		3/19
DOHERTY, STEVE			INCREASE JURISDICTION OF MUNICIPAL COURTS			

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on March 5, 1991, at 10:10 A.M.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Members Excused: Rep. Lee, Rep. Rice

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SB 270
LEGALIZE AND REGULATE AMUSEMENT GAMES

Presentation and Opening Statement by Sponsor:

CHAIRMAN BILL STRIZICH noted prior to recognizing the sponsor that due to scheduling problems an additional hearing would be scheduled for a future date to allow additional testimony.

SENATOR WILLIAMS, SENATE DISTRICT 15, stated that SB 270 bill tries to separate carnival games from gambling. We have been working with the gaming people, carnival people, and various county commissioners that are responsible for the carnivals when they come to town. "We feel there is a big need for this bill and I will get into the bill further in the next hearing."

Proponents' Testimony:

Nick Nicholson, A & M Novelties, stated that SB 270 in part addressed problems that were encountered in the Flathead area and other areas where cranes were being utilized as a gambling machine. In August of 1989 my committee recommended to the Attorney General's office that a ruling should be made that cranes could not have a variable resistance or means of controlling the strength of the claw to retrieve prizes. We also recommend that there should be a license or permit fee to enable control of these machines. This bill has addressed this very amicably. It stipulates that no cash prizes can be awarded and that the machines be designed so as not to have any outside control for setting the claw so it will not retrieve prizes.

There is one point that should be reviewed in the sub-committee. On page 6, line 9, the Board of County Commissioners may issue an operator an annual permit for each crane game operated. There is no cap on this permit. Our recommendation is that a permit would be kept at a rate of $25. Mr. Nicholson stated, "I would appreciate your favorable consideration on this bill."

Opponents' Testimony: none

Questions From Committee Members:

REP. BROWN asked **Mr. Nicholson** where a person would find these crane games?

Mr. Nicholson said they are in supermarkets, bowling alleys, and truck stops.

REP. BROWN asked if the crane games occasionally found in bars are the same as the ones found anywhere else?

Mr. Nicholson said that all machines are the same.

REP. BROWN asked **Mr. Nicholson** if it ever crossed his mind that this was a gambling game? **Mr. Nicholson** said no, not until we received and interpretation of a law that said any mechanical electronic game is gambling.

Closing by Sponsor:

SEN. WILLIAMS assured the committee there would be more testimony at the next hearing and is prepared to answer any questions the committee might have at this time or in the future.

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3-5-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. DAVE BROWN	✓		
REP. ROBERT CLARK	✓		
REP. PAULA DARKO	✓		
REP. BUDD GOULD	✓		
REP. ROYAL JOHNSON	✓		
REP. VERNON KELLER	✓		
REP. THOMAS LEE			✓
REP. BRUCE MEASURE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. LINDA NELSON	✓		
REP. JIM RICE			✓
REP. ANGELA RUSSELL	✓		
REP. JESSICA STICKNEY	✓		
REP. HOWARD TOOLE	✓		
REP. TIM WHALEN	✓		
REP. DIANA WYATT	✓		
REP. BILL STRIZICH, CHAIRMAN	✓		

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. SB#270

DATE 3-5-91 SPONSOR(S) Sen. Williams

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Jordan Morris	MMIC	270		✓
Bob Robinson	Montana Contractors Ass	SB 270		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

same immunities and obligations as cities and towns. He stated that there was some concern expressed with respect to the boards that are created but that SB 154 covers liability for these boards.

Closing by Sponsor:

SEN. THAYER stated that the bill tries to clarify existing law for a group of people that should be covered under the same liability laws as local government agencies. He asked the committee for a do concur consideration.

HEARING ON SB 270
LEGALIZE AND REGULATE AMUSEMENT GAMES

Presentation and Opening Statement by Sponsor:

SEN. WILLIAMS, SENATE DISTRICT 15, stated that he would like his proponents to explain the proposed amendments and the bill to the committee. **EXHIBIT 6**

Proponents' Testimony:

Lois Menzies, Administrative Officer, Gambling Control Division - Department of Justice, stated that the Department of Justice supports SB 270 because it resolves some problems that emerge from SB 431 during the last session. She stated that because of the definition of gambling contained in that bill, some amusement games were considered illegal gambling activities in Montana. The carnival industry agreed to take certain games out of the carnivals that were based on chance. The games based on skill were permitted to keep operating in carnivals. Ms. Menzies stated that SB 270 corrects the problem created by the bill last session by creating a new section for carnivals games separate from the definition of gambling. She stated that the Division did have one reservation with the bill, as introduced, permitting games of pure chance to be conducted in Montana. The Division's position is that games based solely on chance are remained in the gambling area. She stated that those amendments are in the bill and the Division supports the bill as amended.

Ms. Menzies stated that she would quickly explain the amendments to the committee.

> Amendment one was made at the request of the Department of Justice that would prohibit a person from participating in carnival games based credit. Only cash can be given in a carnival game.
>
> Amendment two is a clarification that provides an amusement game may now be a device that simulates a gambling activity.

Amendment three permits any business to enter into an agreement with the carnival operator to provide amusement games.

Amendment four clarifies that a prize given out in an amusement game may not exceed the whole sale value of $50.

Amendment six eliminates the $2.00 cap on the fee to play the game.

Amendment seven and eight prohibits manipulation of a game at any time to determine who would win the game.

Amendment nine prohibits counties from imposing a fee for issuing amusement game permit.

REP. STEPPLER, HOUSE DISTRICT 21, stated that he is representing the county rodeo in Sidney, Montana. He stated that SB 270 is necessary to insure that Montana's county fairs and similar forms of entertainment, that includes carnival operators, are allowed to continue as in the past years. He felt that the bill clarifies language in defining games of skill or games of mixed skill and chance. He asked the committee to support SB 270.

Patrick Holt, Rocky Mountain Association of Fairs, stated that he was involved with the original drafting of SB 270 and have been involved with the discussions and amendments that have taken place. He felt that the original intent behind the drafting of the bill was to try and correct a problem that occurred when the gambling legislation was originally enacted. The original intent was not to create anything new or open doors to anything, but to bring back what has always been in Montana and to allow it to be an exemption of the existing gambling laws.

He stated that with the amendments that have been made to the bill, there is still some ambiguity as to whether or not all of the games that were traditionally played in the state of Montana are allowed under the language at the present time. He stated that the word "chance" was removed and elimination of that language could be easily interpreted as eliminating any language that was made last year. He stated that SB 270 is very much needed and it is critical to the county fairs and carnivals.

Bill Chiesa, Billings Metra, Billings - stated he is in support of the bill.

Board of County Commissioners, Yellowstone County, sent a letter to the committee supporting SB 270. **EXHIBIT 7**

Larry Stollfuss, Executive Secretary - Rocky Mountain Association of Fairs, stated that all the fairs in Montana have been contacted about SB 270 and are in support of it. He stated that it was the Associations hope that the bill will pass.

Bob Cartwright, Northwest Montana Fair - Kalispell, stated that many of the fairs depend a great deal of revenue that is generated by carnivals. He stated that he calls it free revenue because they do not have any expenses from the percentages that is received by carnivals. He hoped the committee would give their favorable consideration of SB 270.

Sam Yuvsiat, Manager - Western Montana Fair - Missoula, stated that he is in full support of SB 270 and would ask the committee to give it a do concur consideration.

Bill Ogg, State Fair - Great Falls, stated that SB 270 significantly impacts the Great Falls business people and asked the committee for a do pass recommendation.

Mik Mikkelson, A & M Novelties, stated that SB 270 is needed to keep the carnivals in operation for the people of Montana to enjoy as they have in the past years.

Gary Keopplin, Ravalli County Fair, stated that the people of Ravalli County are in favor of SB 270.

John Ravenberg, Rocky Mountain Fair Association, stated that SB 270 is a product from the concerns from the local areas stating they do not want to loose their county fairs. He stated that revenue is generated to these areas that is much needed and he hoped the committee would pass SB 270.

Opponents' Testimony: none

Questions From Committee Members:

REP. BROWN asked **Mr. Ravenberg** what games were taken out because of the word "chance" was taken out of the bill? **Mr. Ravenberg** stated that Duck Ponds and the Color Wheel.

REP. BROWN asked **Lois Menzies** if the application of arcades in the bill mean that an arcade that exists in a shopping center comes under the provisions of this bill but an arcade that exists in the back of a convenience store doesn't? **Ms. Menzies** stated that arcades are simply included in this bill, but is a separate entity from this bill.

REP. BROWN asked **Ms. Menzies** how an arcade in a pizza parlor would come under this bill? **Ms. Menzies** stated that an arcade in a pizza parlor doesn't fit this statute. She stated that the way the bill is drafted is that it allows arcades in free standing buildings or an area within a mall for the sole purpose to operate that arcade.

REP. BROWN stated that rather than have the Attorney General waste a lot of time and tax payers money setting rules for amusement games for children in the state and for rules governing what has been traditionally the big event in rural Montana and in

most of the cities, which is the county fair, why doesn't the committee provide a definition in the bill that says, "amusement games are exempted with some reasonable explanation as to what amusement games are" and skip about 5 pages of the bill?

Ms. Menzies stated that the bill does provide a definition of what an amusement game is. The bill, as drafted, did not give the Justice Department the authority. She stated that it was through the gambling industry that the suggestion was made to draft a bill such as this bill. The purpose was for uniformity of amusement games throughout the counties of Montana. She felt that was a reasonable approach by the Department.

REP. BROWN asked **Ms. Menzies** if it seems that the main rea[illegible]he Department is dealing with [illegible] is because of the Attorney General's inability to interpret the statutes on gambling in the state of Montana? Ms. Menzies stated that there is a statute on the book now that provides that the department can prohibit activities that are not specifically authorized. The Attorney General had no choice but to make the decision he did.

REP. BROWN asked **Ms. Menzies** if that is the case, what is your comment as to whether or not the statue should be changed in the existing gambling law the way the committee amended Sen. Brown's Constitutional Amendment Bill to take the Attorney General out of that position to have the statue say it is illegal otherwise it is legal in the state of Montana. **Ms. Menzies** felt that would be a worthy option that should be considered.

Closing by Sponsor:

SEN. WILLIAMS stated that the bill isn't a cure all but it is a good bill that he felt everyone could live with and asked the committee to pass it out to the House Floor.

EXECUTIVE ACTION ON SB 304

Motion/Vote: **REP. RICE MOVED SB 304 BE CONCURRED IN.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 7

Motion: **REP. TOOLE MOVED SB 7 BE CONCURRED IN.**

Discussion:

John MacMaster stated that Sen. Mazurek offered some clean-up amendments. One is on page 6, line 8, striking "assets" and insert the word "property". The second amendment is on the same

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL **DATE** 3-13-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI			
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

EXHIBIT C
DATE 3-13-91
HB 270

PROPOSED AMENDMENTS TO SENATE BILL NO. 270

March 13, 1991

1. Page 2, lines 11 and 12.
Following: "player" on line 11
Strike: "gives" through "otherwise," on line 12
Insert: "pays cash"

2. Page 3, line 4.
Strike: "and"
Insert: "or"

3. Page 4, line 7.
Following: "~~business~~"
Insert: "business,"

4. Page 4, line 14.
Following: "A"
Insert: "wholesale"

5. Page 4, line 16.
Following: "A"
Insert: "wholesale"

6. Page 4, line 25 through line 1, page 5.
Strike: subsection 3 in its entirety
Renumber: subsequent subsections

7. Page 5, line 9.
Strike: "during" through "play"

8. Page 5, line 10.
Strike: "by" through "person"

9. Page 6, line 2.
Following: "MAY"
Insert: "not"

EXHIBIT
DATE 3-13-91
SB 270

County of Yellowstone

COMMISSIONERS

(406) 256-2701

Box 35000
Billings, MT 59107

March 12, 1991

Rep. Bill Strizich, Chairman
Committee Members
House Judiciary Committee

Dear Chairman Strizich:

The Yellowstone County Commissioners offer their support for SB270. Our fair depends on the revenue from a well run carnival to finance our fair. This legislation will give midway operators clear guidelines to work with so that they can keep working the Montana circuit. Good carnivals make good fairs and good fairs are important to all Montanans.

Please give this legislation your support.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

Mike Mathew, Chairman

Dwight MacKay, Member

James A. Ziegler, Sr., Member

/pf

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. SB #270

DATE 3-13-91 SPONSOR(S) Sen. Williams

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
MIK MIKKELSON	A/A Novelty	270		✓
MARIE MIKKELSON	✓ ✓	270		✓
Gordon Morris	MACo	270		✓
John Ebelling	County Mts for Gov.	270		✓
Patrick Holt	Rocky Mtn Assn of Fairs	270		✓
Larry Stollfuss	Rocky Mtn Ass. of Fairs	270		✓
BILL CHISA	METRA PARK Billings MT	270		✓
Bob Cartwright	Kalispell, Mont Northwest Montana Fair	270		✓
Sen. Reed Williams	Inland Empire Shows, Inc. Royal West Amusements, Inc.	270		✓
DAVE BROWN	4H + 72	270		✓
Bill Ogg	MT State Fair	270		✓
Sam Eleuniata	Western MT. Fair: Mcla	270		✓
Sen. Dennis Nathe				✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE BILL NO. SB 270

DATE 3-13-91 SPONSOR(S) SEN. WILLIAMS

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
LOIS MENZIES	GAMBLING CONTROL DIVISION	SB 270		X
Gary Koepplin	Ravalli County Fair	SB 270		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.